

CHAPTER 2 MAYOR AND COUNCIL¹

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Section 2-1-1 Elected Officers

- A. The elected officers of the city shall be seven councilmembers, one of whom shall be designated or elected as mayor in accordance with section 2-2-1. Beginning with the council sitting effective June 1, 2004, the members of the council shall be divided by lot into two classes. The first class shall consist of three councilmembers and the second class of four. Those of the first class shall hold office until the next regular election, and those of the second class until the second regular election. At the first regular election held after the change, three councilmembers shall be elected, and at the second regular election four councilmembers shall be elected. Thereafter councilmembers shall be elected in classes of three and four at successive, regular elections and shall hold their office for terms of four years each and until their successors are elected and qualified.
- B. The position of mayor shall be held for a period of two years only following said designation or election. This shall not, however, preclude any member of the council from serving more than one term as mayor.

Section 2-1-2 Corporate Powers

The corporate powers of the city shall be vested in the council and shall be exercised only as directed or authorized by law. All powers of the council shall be exercised by ordinance, resolution, order or motion.

Section 2-1-3 Duties of Office

The mayor and members of the council shall assume the duties of office at the first regular meeting of the council in June next following the date of the general election at which, or effective as of the date of which, the mayor and councilmembers were elected.

Section 2-1-4 Vacancies in Council

The council shall fill by appointment for the unexpired term any vacancy that may occur for whatever reason.

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Section 2-1-5 Compensation

The compensation of elective officers of the city shall be fixed from time to time by ordinance or resolution of the council.

Section 2-1-6 Oath of Office

Immediately prior to assumption of the duties of office, the mayor and each councilmember shall, in public, take and subscribe to the oath of office.

Section 2-1-7 Bond

Prior to taking office, the mayor and every councilmember shall execute and file an official bond, enforceable against the principal and his sureties, conditioned on the due and faithful performance of his official duties, payable to the state and to and for the use and benefit of the city or any person who may be injured or aggrieved by the wrongful act or default of such officer in his official capacity. A person so injured or aggrieved may bring suit on such bond under provisions identical to those contained in Section 38-260 of the Arizona Revised Statutes. Bonds shall be in such sum as shall be provided by resolution, and the premium for such bonds shall be paid by the city. Nothing in this section shall preclude the city from obtaining a blanket bond pursuant to the provisions of Section 9-302, Arizona Revised Statutes.

Section 2-1-8 Financial Disclosure Statement

The mayor and each councilmember shall file a financial disclosure statement in a form and with such information as provided by Resolution No. 03-05 of the council, as amended, and pursuant to state law.

ARTICLE 2-2 MAYOR

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Section 2-2-1 Selection of Mayor

Prior to March 14, 2006, the councilmembers shall at the first regular meeting in June following their election choose a mayor from among their number. Beginning with the election to be held on March 14, 2006, however, the Mayor of the City of Maricopa shall be directly elected by the qualified electors of the City of Maricopa.

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Section 2-2-2 Vice Mayor

At the first regular meeting in June following an election, after the selection of the mayor in accordance with section 2-2-1, the council shall designate one of its members as vice mayor, who shall serve at the pleasure of the council. The vice mayor shall perform the duties of the mayor during his absence or disability.

Section 2-2-3 Acting Mayor

In the absence or disability of both the mayor and vice mayor, the council may designate another of its members to serve as acting mayor who shall have all the powers, duties and responsibilities of the mayor during such absence or disability.

Section 2-2-4 Powers and Duties of the Mayor

The powers and duties of the mayor shall include the following:

- A. He shall be the chief executive officer of the city.
- B. He shall be the chairman of the council and preside over its meetings. He may make and second motions and shall have a voice and vote in all its proceedings.
- C. He shall enforce the provisions of this code.
- D. He shall execute and authenticate by his signature such instruments as the council or any statutes, ordinances or this code shall require.
- E. He shall make such recommendations and suggestions to the council as he may consider proper.
- F. He may, by proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing or any other natural or man-made calamity or disaster or in the event of the threat or occurrence of riot, rout or affray or other acts of civil disobedience which endanger life or property within the city. After declaration of such emergency, the mayor shall govern by proclamation and impose all necessary regulations to preserve the peace and order of the city, including but not limited to:
 - 1. Imposition of a curfew in all or any portion of the city.
 - 2. Ordering the closing of any business.
 - 3. Closing to public access any public building, street or other public place.
 - 4. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.
- G. He shall perform such other duties required by state statute and this code as well as those duties required as chief executive officer of the city.

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Section 2-2-5 Absence of Mayor

The mayor shall not absent himself from the city for a greater period than fifteen consecutive days without the consent of the council.

Section 2-2-6 Failure to Sign Documents

If the mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring his signature for five days consecutively, a majority of the members of the council may, at any regular or special meeting, authorize the vice mayor or, in his absence, an acting mayor to sign such ordinance, resolution, contract, warrant, demand or other document or instrument which when so signed shall have the same force and effect as if signed by the mayor.

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Section 2-3-1 Primary Election

Any candidate who shall receive at the primary election a majority of all the votes cast shall be declared to be elected to the office for which he is a candidate effective as of the date of the general election, and no further election shall be held as to said candidate; provided that if more candidates receive a majority than there are offices to be filled then those equal in number to the offices to be filled receiving the highest number of votes shall be declared elected.

Section 2-3-2 Non-Political Ballot

Nothing on the ballot in any election shall be indicative of the support of a candidate.

Section 2-3-3 General Election Nomination

If at any primary election held as above provided there be any office for which no candidate is elected, as to such office said election shall be considered to be a primary election for nomination of candidates for such office, and the second or general municipal election shall be held to vote for candidates to fill such office. Candidates to be placed on the ballot at such second or general municipal election shall be those not elected at such first election, shall be equal in number to twice the number to be elected to any given office or less than that number

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if there be less than that number named on the primary election ballot, and persons who receive the highest number of votes for the respective offices at such first election shall be the only candidates at such second election, provided that if there be any person who, under the provisions of this article, would have been entitled to become a candidate for any office except for the fact that some other candidate received an equal number of votes therefor, then all such persons receiving an equal number of votes shall likewise become candidates for such office.

Section 2-3-4 General Election to Office

The candidates equal in number to the persons to be elected who receive the highest number of votes at the general election shall be declared elected.

Section 2-3-5 Candidate Financial Disclosure

Each candidate for the office of councilmember shall file a financial disclosure statement in a form and with such information as provided by Resolution No. 03-05 of the council, as amended, and pursuant to state law, when such candidate files a nomination paper.

ARTICLE 2-4 COUNCIL PROCEDURE

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Section 2-4-1 Regular Meetings²

The council shall hold regular meetings on the first and third Tuesday of each month at 7:00 o'clock p.m., provided that when the day fixed for any regular meeting of the council falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday. All regular meetings of the council shall be held at the Maricopa High School, 45012 W. Honeycutt Avenue, Maricopa, Arizona, or such other place as specifically designated in writing in all required public notices. However, when circumstances are such that there is no official business requiring council consideration or that there will be no quorum of the council present, the meeting may be cancelled by the mayor after notifying all members of the council, the manager and the clerk. Notice of cancellation of the meeting shall

² AMENDED Section 2-4-1

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be posted at least forty-eight hours prior to the time originally scheduled for the meeting in at least three public places in the city. At no time, however, shall the council meet less than once per month. The Clerk, upon request of the Mayor, or upon the written request of any three members of the Council, may schedule and convene a work session prior to any regularly scheduled council meeting by notifying members of the date, hour, place and purpose and providing appropriate public notice at least twenty-four hours in advance of the work session by posting the agenda in accordance with Arizona Revised Statute Sections 38-431.02 and 38-431.09, as each may be amended from time to time.

Section 2-4-2 Special Meetings³

The mayor, upon his own motion, or the clerk upon the written request of three members, may convene the council at any time by notifying the members of the date, hour, place and purpose of such special meeting and by giving such additional notice as required by state law. The public shall be given at least twenty-four hours notice of any such special meeting by the posting of such notice in at least three public places and preparation of an agenda in accordance with Arizona Revised Statute Section 38-431.09 as amended; except that in the case of an actual emergency, a meeting may be held upon such notice as is appropriate for the circumstances in accordance with Arizona Revised Statute Section 38-431.02 as amended. A special work session may be called in the same manner and upon the same notice as otherwise set forth in this Paragraph for a special meeting of Council.

Section 2-4-3 Meetings to Be Public

- A. All official meetings of the council at which any legal action is taken shall be open to the public. Notice of meetings shall be given in a manner consistent with state statutes. Upon approval by a majority vote of the council, the council may meet in a closed executive session for a discussion of the following:
 - 1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, disciplining or resignation of a public officer, appointee or employee of the city, except that with the exception of salary discussions, an officer, appointee or employee may demand that such discussion or consideration occur at a public meeting.
 - 2. Discussion or consideration of records exempt by law from public inspection.
 - 3. Consultation for advice with the city attorney.
- B. Minutes of executive sessions shall be kept confidential except from members of the council.
- C. No executive session may be held for the purpose of taking any final action or making any final decision.

³ AMENDED Section 2-4-2

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Section 2-4-4 Quorum

A majority of the duly elected or appointed mayor and council shall constitute a quorum for transacting business, but a lesser number may adjourn from time to time and compel the attendance of absent members.

Section 2-4-5 Agenda

Prior to each council meeting, or on or before a time fixed by the council for preparation and distribution of an agenda, whichever is earlier, the city manager shall collect all written reports, communications, ordinances, resolutions, contracts and other documents to be submitted to the council and shall prepare an agenda according to the order of business. A copy of the agenda and pertinent material, as approved by the city manager, shall be furnished to the mayor and council, city manager, each department and the city attorney by the city clerk.

Section 2-4-6 Order of Business

The business of the council shall be taken up for consideration and disposition in the following order:

- A. Call to Order. The mayor shall take the chair precisely at the hour set for the meeting and shall immediately call the council to order. In the absence of the mayor, the vice mayor shall call the council to order. In the absence of both the mayor and vice mayor, the clerk shall call the council to order and an acting mayor shall be selected to chair the meeting. Upon arrival of the mayor or the vice mayor, the vice mayor or the acting mayor shall immediately relinquish the chair upon the conclusion of the business immediately before the council. The mayor shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meetings. The city attorney may serve as parliamentarian or a parliamentarian may be appointed by the council to be present at all regular meetings.
- B. Invocation and Pledge. The mayor or presiding official pursuant to paragraph A may request that a councilmember or member of the general public open the meeting by invocation, which shall be followed by the pledge of allegiance.
- C. Roll Call. Before proceeding with the business of the council, the clerk or deputy shall call the roll of the members, and the names of those present shall be entered in the minutes. If a quorum is not present, the members may adjourn pursuant to section 2-4-4 of this code.
- D. Introduction of Distinguished Guests and Visitors, Awards, Presentations and Communications. The council may wish to acknowledge the presence of an individual or individuals present in the audience. Proclamations issued by the mayor, presentations from other agencies and awards given to or received by the city will be considered at this time.

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- E. Minutes. If not included as a consent agenda item, the clerk or deputy shall present the minutes of the preceding council meeting which shall be approved if correct. Any error noted shall be corrected and initialed by the clerk.
- F. Public Hearings. Public hearings required by city ordinance, state statute or federal regulations shall be conducted by the council and all interested parties given the opportunity to speak. Public hearings shall be conducted on amendments to the zoning ordinance, if requested by the aggrieved party, any member of the public or any member of the council, or if no public hearing has been held by the planning and zoning commission.
- G. Consent Agenda. The council may, at this time, take single action on any or all items listed as consent agenda items. These items may include, but are not limited to, acceptance of agenda, acceptance of minutes, acceptance of resignations and adoption of certain resolutions and other items which do not require a public hearing.
- H. Regular Agenda. The council shall consider any business not heretofore considered including, but not limited to, acceptance of resignations, adoption of resolutions or ordinances not requiring a public hearing, consideration of contracts, award of bids, appointments to boards and commissions and setting of dates for work sessions, special meetings and executive sessions. Council liaison reports and committee reports as required by the council shall be presented at this time. No member of the public shall be permitted to speak on these items unless invited to do so by the council after first filing a written request to speak with the clerk.
- I. City Manager's Report. The manager, members of the city staff or those individuals designated by the manager may present information pertinent to items under consideration or information related to the operation of the city.
- J. Mayor's Report. The Mayor may present information pertinent to items under consideration or information related to the operations of the city.
- K. Call to the Public. At this time the council shall, as it deems necessary, consider all business not specifically provided for herein. Requests, petitions, remonstrances, communications, comments or suggestions from citizens present shall be heard. All speakers must submit a written "Request to Speak" to the clerk in advance of this item. All such remarks shall be addressed to the council as a whole and not to any member thereof. Such remarks shall be limited to five minutes unless additional time is granted by the council. Where a group or organization wishes to present comments or discussion, one person from the group shall be designated to present said comments or discussion. No person other than the individual speaking shall enter into the discussion without the permission of the presiding officer.
- L. Adjournment. The council may, by a majority vote of those present, adjourn at the conclusion of business. A motion to adjourn shall always be in order and decided without debate.

Section 2-4-7 Addressing the Council

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The public in accord with other provisions of this code shall have the right to petition council at the call to the public, the time for which to be prescribed by council, but otherwise any person wishing to address any regular or special meeting of the council shall obtain consent of the mayor or consent of a majority of the council members present.

Section 2-4-8 Disruption of Meeting

It shall be unlawful to disturb or interrupt any regular or special meeting of the city council; any person violating this section, in addition to being punishable as follows, shall be summarily ejected from said meeting.

Section 2-4-9 Penalty

Any person violating any provision of this article shall be guilty of a civil offense and be fined not more than \$50.00.

Section 2-4-10 Committees and Commissions

The council may create such board, committees and commissions, standing or special, as it deems necessary. Such boards, committees and commissions shall consist of as many members and shall perform such duties as the council may require and shall exist at the pleasure of the council. No employee or appointed officer of the city may serve as a voting member of any such board, committee or commission.

Section 2-4-11 Voting

- A. The mayor shall vote as a member of the council.
- B. Upon the request of any member, the ayes and nays upon any question shall be taken and entered in the minutes.

Section 2-4-12 Suspension of Rules

Any of the provisions of this article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths of the members present, except that this section shall not be construed to permit any action that is contrary to state statutes.

ARTICLE 2-5 ORDINANCES, RESOLUTIONS AND CONTRACTS

2-5-1 Prior Approval

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2-5-6	Signatures Required
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Section 2-5-1 Prior Approval

All ordinances, resolutions and contract documents shall, before presentation to the council, have been reviewed as to form by the attorney and shall, when there are substantive matters of administration involved, be referred to the person who is charged with the administration of the matters. Such person shall have an opportunity to present his objections, if any, prior to the passage of the ordinance, resolution or acceptance of the contract.

Section 2-5-2 Introduction

Ordinances, resolutions, and other matters or subjects requiring action by the council shall be introduced and sponsored by a member of the council, except that the attorney, the manager or the clerk may present ordinances, resolutions and other matters or subjects to the council, and any councilmember may assume sponsorship thereof by moving that such ordinance, resolution, matter or subject be adopted; otherwise, they shall not be considered.

Section 2-5-3 Requirements for an Ordinance

Each ordinance may have only one subject, the nature of which is clearly expressed in the title. Whenever possible, each ordinance shall be introduced as an amendment to this code or to an existing ordinance, and, in such case, the title of the sections to be amended shall be included in the ordinance.

Section 2-5-4 Reading of Proposed Ordinance

All ordinances shall have at least one reading, which may be performed on the same day on which it was introduced or passed. All such readings shall be by title only unless the council, by majority vote, requires reading of the text of the ordinance in full.

Section 2-5-5 Effective Date of Ordinances

A. No ordinance, resolution or franchise shall become operative until thirty days after its passage by the council and signature by the mayor, except measures necessary for the immediate preservation of the peace, health or safety of the city, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the council.

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B. In addition to the provisions of subsection A of this section, the clerk shall certify the minutes of any council meeting at which an ordinance, resolution or franchise, except an emergency measure is passed. The thirty day period specified in subsection A of this section shall be calculated from the date of passage by the council and signature by the mayor.

Section 2-5-6 Signatures Required

Every ordinance passed by the council shall, before it becomes effective, be signed by the mayor and attested by the clerk.

Section 2-5-7 Publishing Required

All ordinances shall be published as required by state statutes. Other orders, resolutions, motions, regulations or proceedings of the council shall be published only if required by state statutes or expressly ordered by the council.

Section 2-5-8 Posting Required

Every ordinance imposing any penalty, fine, forfeiture or other punishment shall, after passage, be posted by the clerk in three or more public places within the city and an affidavit of the person who posted the ordinance shall be filed in the office of the clerk as proof of posting.

ARTICLE 2-6 INDEMNIFICATION OF OFFICERS, EMPLOYEES AND COUNCILMEMBERS

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Section 2-6-1 Definitions

In this chapter unless the context requires otherwise:

A. "Person" includes officers, employees and city councilmembers of the city of Maricopa.

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- B. "Proceedings" includes any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administered or investigated.

Section 2-6-2 Indemnification

Any person made a party or threatened to be made a party to any proceeding by reason of the fact that said person is an officer, employee or city councilmember of Maricopa shall be indemnified by the city as hereinafter set forth.

Section 2-6-3 Action Other Than By or In the Right of City

If said proceeding is one other than an action by or in the right of the city, said person shall be indemnified against his expenses, including reasonable attorney's fees, and including judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such proceeding if he acted, or his failure to act was, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the city.

Section 2-6-4 Criminal Proceeding

If said proceeding is a criminal proceeding, said person shall be indemnified if he had no reasonable cause to believe his conduct was unlawful.

Section 2-6-5 No Presumption Created

With respect to indemnification under section 2-6-3 or 2-6-4 above, a termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, by itself, create a presumption that said person acted, or failed to act, other than in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the city; and with respect to any criminal proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2-6-6 Action By or In the Right of City

If said proceeding is one by or in the right of the city to procure a judgment in the city's favor, said person shall be indemnified against his expenses, including reasonable attorney's fees, but excluding judgments and fines, and, except as hereinafter set forth, amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of such proceeding if he acted, or his failure to act was, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the city.

Section 2-6-7 Negligence and Misconduct

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No indemnification under Section 2-6-6 shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the city except that such person may apply to the court in which such proceeding was brought and request a determination that such person is fairly and reasonably entitled to indemnity for such expenses when such court shall deem proper. The court in which any such proceeding was brought may determine upon application that, in view of all circumstances of the case, indemnity for amounts paid in settlement is proper and may order indemnity for the amounts so paid in settlement and for the expenses, including attorneys fees, actually and reasonably paid in connection with such application, to the extent the court deems proper.

Section 2-6-8 Success on the Merits

To the extent that a person covered by this article has been successful on the merits or otherwise in defense of any proceeding covered by this article or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses, including attorneys fees, actually and reasonably incurred by him in connection therewith.

Section 2-6-9 Determination by Council

Any indemnification made pursuant to this article, unless ordered by a court, shall be made by the city only as authorized in the specific case upon a determination that indemnification of the officer, employee or councilmember is proper in the circumstances because he has met the applicable standard of conduct set forth in this article. Such determination shall be made by any of the following:

- A. By the city council by majority vote of a quorum consisting of councilmembers who were not party to the proceeding.
- B. If a quorum is not obtainable, then in a written opinion of independent legal counsel acquired by majority of the disinterested councilmembers for that purpose.
- C. If there are no disinterested councilmembers, by the court or other body before which the proceeding was brought or in the court of competent jurisdiction upon the approval of an application by any person seeking indemnification, in which case indemnification may include the expenses and attorneys fees actually and reasonably paid in connection with such application.

Section 2-6-10 Payment of Expenses in Advance

Expenses, including attorneys fees, incurred in defending a civil or criminal proceeding may be paid by the city in advance of the final disposition of such proceeding as authorized in the manner provided in section 2-6-9 upon receipt of an undertaking by or on behalf of the officer, employee or council member to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the city as authorized by this article.

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Section 2-6-11 Indemnification Not Exclusive Remedy

The indemnification provided by this article shall not be deemed exclusive of any other rights to which those indemnity may be entitled.